

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ERIN C. WEBER,

Plaintiff,

Case No. 02-74602

vs.

HON. GEORGE CARAM STEEH

INFINITY BROADCASTING CORP.  
et al.,

Defendants.

/

ORDER GRANTING IN PART PLAINTIFF'S SECOND SUPPLEMENTAL  
MOTION FOR ATTORNEY FEES AND COSTS [DOCUMENT NO. 158]

This matter is presently before the Court on plaintiff's second supplemental motion for attorney fees and costs. In its Second Amended Judgment entered on February 27, 2006, the Court awarded plaintiff \$423,807.11 in post-trial attorney fees and costs incurred through December 28, 2005. Plaintiff now seeks a supplemental award of post-trial fees and costs for services performed through February 28, 2006 and not covered by its previous motions. For the reasons that follow, the Court grants in part plaintiff's supplemental motion for attorney fees and costs in the amount of \$43,541.38.

Plaintiff seeks post-trial attorney fees in the amount of \$28,741.25 for Hogan & Hartson, and \$23,422.50 for Driggers, Schultz & Herbst. Plaintiff also seeks an award for post-trial computer-assisted legal research and costs of \$1,657.75. The post-trial fees and costs that form the basis of the second supplemental motion were incurred in connection with plaintiff's motion for reconsideration, plaintiff's supplemental motion for

attorney fees, plaintiff's response to defendants' motion for reconsideration, and the January 30, 2006 hearing before this Court.

Plaintiff's counsel achieved favorable results, due to their post-trial efforts covered in the present fee request, such that the Judgment for plaintiff was increased from \$814,000 to \$1,225,240. The Court considers plaintiff to be the "prevailing party" in this case.

Defendant argues that plaintiff's second supplemental motion for attorney fees is barred by plaintiff's acceptance of the Court's conditional remittitur. In its February 7, 2006 Order, the Court offered plaintiff the choice between a remitted judgment of \$1,225,240 or a new trial. The same order awarded attorney fees and costs of \$423,807. The Seventh Amendment bars a court from entering judgment for an amount less than the amount of damages calculated by the jury, unless the court gives the plaintiff the option of a new trial instead. See Hetzell v. Prince William County, 523 U.S. 208, 210-211 (1998). Seventh Amendment rights do not attach to court-awarded attorney fees. The Court's remittitur offer, and plaintiff's acceptance of it, goes only to damages. Plaintiff's acceptance of the conditional remittitur does not bar plaintiff from seeking additional attorney fees.

A motion for attorney fees must be filed within 14 days after entry of judgment. Fed. R. Civ. P. 54(d)(2)(B). Plaintiff's second supplemental motion for attorney fees and costs was filed March 8, 2006, within 14 days of the Second Amended Judgment of February 27, 2006. Plaintiff's motion for fees is therefore timely.

The Court's previous award of post-trial attorney fees applied a 30% discount to Hogan & Hartson's hourly rates to reflect Detroit rates. See Adcock-Ladd v. Secretary

of Treasury, 227 F.3d 343 (6<sup>th</sup> Cir. 2000). For the same reasons that it did so previously, the Court again discounts Hogan & Hartson's rates by 30%. This results in an award of attorney fees of \$20,118.88 for Hogan & Hartson. The Court previously found the rates charged by Driggers, Schultz & Herbst to be reasonable, and continues to so find for purposes of the present motion. Therefore, the request of \$23,422.50 for Driggers, Schultz & Herbst will be approved.

The Court previously disallowed costs associated with computerized legal research and, for the same reasons, denies recover of such costs sought by the present motion. Now, therefore,

IT IS HEREBY ORDERED that plaintiff's second supplemental motion for attorney fees and costs is GRANTED in part. Plaintiff is awarded attorney fees of \$20,118.88 for Hogan & Hartson, and \$23,422.50 for Driggers, Schultz & Herbst, for a total award of \$43,541.38.

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

Dated: May 8, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on May 8, 2006, by electronic and/or ordinary mail.

s/Josephine Chaffee  
Secretary/Deputy Clerk